IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2431 OF 2005

ALONG WITH

CRIMINAL APPLICATION NO.2440 OF 2005

Kishorilal Mangilal Agrawal & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

.....

Mr.Amin Solkar for Applicants.

Mr.V.B.Konde-Deshmukh, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

APRIL 21, 2005.

P.C.

1. Heard Counsel for the parties.

2. According to the Applicants, they have retired from the partnership firm, which has been found indulging in adulteration of petroleum product and have no concern whatsoever in the said

firm. That assertion is supported by the Form ‘E’ issued by the Registrar of Firms, indicating that Applicants retired from the partnership firm on 1st September 2003.

3. To get over this position, learned A.P.P. relied on the statement of accused Sundeep Parasnath Dwivedi, which indeed, is not a confessional statement, to mention that the Applicants have retired from the partnership only on paper, but in fact, were in control of the entire transactions in respect of the firm. When question was asked to learned A.P.P. as to whether the fact that the entire transaction of the firm is controlled by the present Applicants, has been investigated by the concerned Investigating Officer and any material to support that position has been collected. Leaned A.P.P. fairly accepts, on instructions, that no such investigation has been done so far.

4. If it is so, the Investigating Officer cannot proceed to arrest the Applicants, so long as such material is collected during the

investigation.

5. Accordingly, this Application is being disposed of by directing the Investigating Officer to give 72 hours advance notice to the Applicants, as soon as he decides to arrest the Applicants after collecting further material to indicate the complicity of the Applicants in the commission of the alleged offence.

6. In the meantime, Applicants shall co-operate for the purpose of investigation and report to the Investigating Officer as and when called upon.

7. All questions are left open, in the event the Applicants are required to file fresh anticipatory bail application.

8. Application disposed of on the above terms.

A.M.KHANWILKAR, J.